Medical Marijuana Rulemaking Proposal – FY 13 (Initial Draft – Chapter C)

Chapter C: LICENSED PREMISES

(Statutory preamble)

"Licensed premises" means the premises specified in an application for a license under article 43.3 of title 12, which are owned or in possession of the licensee and within which the licensee is authorized to cultivate, manufacture, distribute, or sell medical marijuana in accordance with the provisions of the article. (§12-43.3-104(3), C.R.S.)

"Premises" means a distinct and definite location, which may include a building, a part of a building, a room, or any other definite contiguous area. (§12-43.3-104(14, C.R.S.)

At all times, a licensee shall possess and maintain possession of the premises or optional premises for which the license is issued by ownership, lease, rental or other arrangement for possession of the premises. (§12-43.3-310(8)(b), C.R.S.)

Each licensee shall manage the licensed premises him or herself or employ a separate and distinct manager on the premises and shall report the name of the manager to the state and local licensing authorities. Any change in manager shall be reported thirty days prior. (§12-43.3-310(12), C.R.S.)

The licenses shall conspicuously place the state and local licenses issued at all times on the premises or optional premises. (§12-43.3-310(9)(a), C.R.S.)

A limited access area shall be a building, room, or other contiguous area upon the licensed premises where medical marijuana is grown, cultivated, stored, weighed, displayed, packaged, sold, or possessed for sale, under control of the licensee, with limited access to only those persons licensed by the state licensing authority. (§12-43.3-105, C.R.S.)

Neither medical marijuana nor medical marijuana-infused products may be consumed on any licensed premises (§12-43.3-404(6), C.R.S.; §12-43.3-901(1)(a), C.R.S.). It is unlawful to have on the licensed premises any medical marijuana or medical marijuana paraphernalia that show evidence of the medical marijuana having been consumed or partially consumed. It is unlawful to have any medical marijuana on the premises which the licensee is not authorized to sell. (§12-43.3-901).

(New Rule)

GENERAL REQUIREMENTS

Limited Access Areas - Minimum Requirements (formerly Rule 10.100 and 10.105)

All persons in a limited access area as provided for in section 12-43.3-105, C.R.S., shall be required to hold and properly display a current license badge issued by the MMED at all times while in any limited access areas. Proper display of the license badge shall consist of wearing the badge plainly visible at or above the waist, with the photo of the licensee visible. The licensee shall not alter, obscure, damage, or deface the badge in any manner.

Prior to entering a limited access area, all outside vendors, contractors or visitors must obtain a visitor identification badge from management personnel of the licensee that shall remain visible while in the limited access area. Visitors shall be escorted by Licensee personnel

- at all times. The licensee shall maintain a log of all visitor activity and shall make such logs available for inspection by the local or state licensing authorities.
- All limited access areas must be identified by the posting of a sign that shall be a minimum of 12" x 12" with the following statement to persons not eligible for access: "Do Not Enter Limited Access Area", in lettering no smaller than ½ inch in height.
- All limited access areas shall be clearly identified to state and local licensing authorities at the time of application. Applicants shall provide a diagram depicting proposed areas of propagation, vegetation, flowering, trimming, curing, manufacturing, and retail sales.
- A licensee's proposed modification of designated limited access areas shall be approved by state and local licensing authorities in the manner described in rule _____.
- Nothing shall prohibit members of the state or local licensing authorities or law enforcement agency from entering a limited access area.

Possession of Licensed Premises

- Licensees and applicants for licenses issued pursuant to section 12-43.3-402, section 12-43.3-403, and 12-43.3-404, C.R.S. must provide evidence that the entity that will hold the business license is in, and remains in, lawful possession of the licensed premises. Evidence of lawful possession consist of properly executed deeds of trust, leases, or other written document acceptable to licensing authorities.
- The licensed premises shall only be those geographical areas that are included and adequately described in executed documents verifying lawful possession. Licensees are not authorized to relocate to other areas or units within a building structure without the filing, and subsequent approval, of a change of location application. Nor may licensees add additional contiguous units or areas, thereby altering the initially-approved premises, without the filing of a new application or an application to modify the licensed premises.
- Licensees are not authorized to sublet any portion of licensed premises for any purpose, unless all necessary applications to modify the existing licensed premises to accomplish any subletting have been approved by the local and state licensing authority. The combining of optional premises cultivation licenses into a common area must be adequately reflected in lease documents and diagrams filed with the local and state licensing authority.

Contiguous Licensed Premises

- All areas within a single geographical location that comprise the licensed premises, which are governed by a single license issued pursuant to 12-43.3-402, 403, or 404, must be contiguous to one another., except that:
 - A medical marijuana center-licensed premises is not required to be contiguous with its related optional premises cultivation licensed premises.
 - A medical marijuana-infused products manufacturer-licensed premises is not required to be contiguous with its related optional premises cultivation licensed premises.

Changing, Altering, or Modifying Licensed Premises (formerly Rule 16.115)

- A. After issuance of a license, the licensee shall make no physical change, alteration, or modification of the licensed premises that materially or substantially alters the licensed premises or the usage of the licensed premises from the plans originally approved, without the prior written approval of both the local and state licensing authorities.
- B. Material or substantial changes, alterations, or modifications requiring approval:
 - Any increase or decrease in the total physical size or capacity of the licensed premises.
 - 2. The sealing off, creation of or relocation of a common entryway, doorway, passage or other such means of public ingress and/or egress, when such common entryway, doorway or passage alters or changes limited access areas, such as the cultivation, harvesting, manufacturing, or sale of medical marijuana or medical marijuana-infused products within the licensed premises.
 - 3. Within a medical marijuana center, any substantial or material enlargement of a sales counter, or relocation of a sales counter, or addition of a separate sales counter, that creates an additional point-of-sale location and/or requires the installation of additional video surveillance cameras.
 - 4. Within an optional premises cultivation, the addition or deletion of licenses that will be, or have been, combined in a common area for the purpose of growing and cultivating medical marijuana pursuant to section 12-43.3-403(2), C.R.S. The licensee whose licensed premises are to be added or deleted from the common area, shall be responsible for filing an application with local and state licensing authorities.
- C. The local and state licensing authorities shall grant approval for the types of changes, alterations, or modifications described herein upon the filing of an application by the licensee, and payment of any applicable fee, that verifies the following:
 - 1. The possession, by the licensee, of the changed premises by ownership, lease, rental or other arrangement, in accordance with section 12-43.3-308(1)(c), C.R.S.
 - 2. Compliance with the applicable zoning laws of the municipality, city and county, or county, in accordance with section 12-43.3-308(1)(b), C.R.S.
 - 3. Compliance with the distance prohibition, as specified in section 12-43.3-308(1)(d), C.R.S., should the proposed change affect the licensed premises' proximity to any public or parochial school; the principal campus of any college, university, or seminary; any child care center; or any drug treatment center.

Advertising Practices (formerly Rule 6.100)

No medical marijuana center licensee shall display upon or in proximity to, or referring to the licensed premises, use, publish or exhibit, or permit to be used or published, any sign, advertisement, display, notice, symbol or other device which is inconsistent with the local laws and regulations in which the licensee operates.

No medical marijuana center licensee shall display upon, or in proximity to, or referring to the licensed premises, use, publish or exhibit, or permit to be used or published, any sign,

advertisement, display, notice, symbol or other device which uses misleading, deceptive, or false advertising, or that is designed to appeal to minors.

SECURITY ALARM SYSTEMS, VIDEO SURVEILLANCE, LOCK STANDARDS

To ensure adequate control of the licensed premises and the medical marijuana contained therein, licensees shall be responsible for the monitoring of medical marijuana-licensed premises.

The use of closed-circuit security alarm systems, video surveillance systems, and commercial locking mechanisms are the optimum methods for maintaining adequate security.

Security Alarm Systems (formerly Rule 10.200)

Definitions

- "Alarm Installation Company" means a person engaged in the business of selling, providing, maintaining, servicing, repairing, altering, replacing, moving or installing a Security Alarm System in medical marijuana-licensed premises.
- "Security Alarm System" means a device or series of devices, intended to summon law enforcement personnel during, or as a result of, an alarm condition. Devices may include hard-wired systems and systems interconnected with a radio frequency method such as cellular or private radio signals that emit or transmit a remote or local audible, visual, or electronic signal; motion detectors, pressure switches, duress alarms (a silent system signal generated by the entry of a designated code into the arming station to indicate that the user is disarming under duress); panic alarms (an audible system signal to indicate an emergency situation); and hold-up alarms (a silent system signal to indicate that a robbery is in progress).
- "Licensee" means any person licensed pursuant to section 12-43.3-402, section 12-43.3-403, or section 12-43.3-404, C.R.S.
- "Monitoring" means the continuous and uninterrupted attention to potential alarm signals that could be transmitted from a Security Alarm System located at medical marijuana-licensed premises, for the purpose of summoning a law enforcement officer to the premises during alarm conditions.
- "Monitoring Company" means a person in the business of providing Monitoring services for medical marijuana-licensed premises.

Security Alarm Systems – Minimum Requirements

- Each licensed premises shall have a closed-circuit Security Alarm System, installed by an Alarm Installation Company, on all perimeter entry points and perimeter windows.
- Licensees may engage the services of a monitoring company to fulfill the requirements of continuous surveillance.
- Licensees shall be responsible for escorting personnel from an Alarm System Company or a Monitoring Company in, and through, any designated limited access area of the licensed premises.

- Licensees shall maintain on the licensed premises all information that describes the location and operation of each Security Alarm System, a schematic of security zones, the name of the Alarm Installation Company, and the name of any Monitoring Company.
- All Security Alarm Systems installed in medical marijuana-licensed premises shall conform to any applicable rule, resolution, or ordinance established by a local authority regarding installation, repair, alteration, maintenance and programming of Security Alarm Systems.
- Licensees shall make available to agents of the state or local licensing authority or other law enforcement agency, upon request or otherwise, all information related to security alarm systems, monitoring activity, and alarm activity.
- Any outdoor optional premises cultivation-licensed premises, or greenhouse cultivation, must meet all of the requirements for security alarm systems described in this rule.

Video Surveillance of Medical Marijuana Licensed Premises (formerly Rule 10.400)

This rule outlines the general minimum requirements for the installation and operation of a video surveillance system that sufficiently records activities within limited access areas, points of ingress/egress, and all active and inactive point-of-sale areas. The rule describes a Licensee's obligation for video recordings and retention, providing secured areas for monitoring equipment, and providing records to state and local licensing authorities and law enforcement agencies upon request.

Licensees are directed to the Medical Marijuana Enforcement Division website for guidance on functional and performance requirements for a complete video surveillance and recording system as are deemed necessary to ensure adequate control of the licensed premises. The website guide provides more in-depth information related to equipment specifications, image acquisition, video recording, and management of hardware and support systems. Adherence to the general guidance for video surveillance systems, as described on the division's website, will be considered as a mitigating factor when state or local licensing authorities are considering sanctions for non-compliance with the general requirements stated in this rule.

General

- The provisions of the rules contained herein shall apply to any person licensed pursuant to sections 12-43.3-402, 12-43.3-403, and 12-43.3-404, C.R.S., and where medical marijuana is possessed, stored, grown, harvested, cultivated, cured, sold, or where laboratory analysis is performed.
- Applicants for licensure shall be required to install a video surveillance and camera recording system that is fully digital and meets the requirements outlined in this section prior to the issuance of any license.
- All video surveillance records must be kept in a secure area, accessible to management only, and shall be made available to licensing authorities or law enforcement, upon request.
- Any data that a Licensee retains from the point-of-sale and video surveillance systems shall be held in confidence by all employees or representatives of the State Licensing Authority, and shall only be disclosed to a law

enforcement agency upon once it is demonstrated that the data is relevant and material to a legitimate regulatory or law enforcement inquiry.

Critical areas - include all limited access areas, points of ingress/egress and all active and inactive point of sale areas.

Video Surveillance Equipment

- The minimum equipment requirement shall consist of digital or network video recorders, cameras capable of meeting the recording requirements described in this rule, video monitors, digital archiving devices, and a color printer capable of delivering still photos.
- Licensees shall maintain a surveillance room that is an area secured from unlicensed personnel and where video recording equipment is maintained and operated. Digital or network video recorders shall be housed in a locked box and available only to management personnel and regulatory authorities.
- Licensees shall maintain an <u>equipment</u> failure notification system that provides an <u>audible and/or text and visual prompt</u> notification of any failure in the surveillance system. The <u>system must provide an alert to the licensee</u> within five (5) minutes of the failure, either by phone, email, or other similar method.
- Licensees are responsible for ensuring all surveillance equipment is properly functioning and the playback quality is suitable for viewing, in order to identify all individuals and activities in monitored areas.
- All cameras, recording equipment, and associated devices shall have sufficient battery backup to support fifteen (15) minutes of recording in the event of a power outage.

Placement of Cameras and Required Camera Coverage

- All limited access areas, point-of-sale areas, security rooms/areas and all points of ingress/egress to limited access areas, and all points of ingress/egress to the exterior of the licensed premises must have fixed camera coverage, in that the camera cannot be moved or modified to change the angle or field of view. Camera placement must allow the recording of any activity occurring within a minimum of twenty (20) feet of all points of ingress and egress and shall allow for the clear and certain identification of all individuals and activities therein, at all times.
- All entrances and exits to the facility shall be recorded from both indoor and outdoor vantage points.
- The system shall be capable of recording any and all pre-determined surveillance areas in low-light conditions. At no time is zero illumination permitted.
- Areas where medical marijuana is grown, cured or manufactured shall have a camera placement in the room facing the primary entry door, and in adequate fixed positions, at a height which will provide a clear

- unobstructed view of the regular activity without a sight blockage from lighting hoods, fixtures, or other equipment.
- Cameras shall be placed at each location where weighing, packaging or tagging activities occur.
- All outdoor optional premises growing areas must meet the same requirements for any other limited access areas or other low light areas.

Maintenance of Surveillance Rooms/Areas

- Surveillance rooms must remain locked, with access limited to employees that are essential to surveillance operations, <u>agents of state and local licensing authorities</u>, law enforcement agencies, and service personnel or contractors when escorted by employees of the Licensee.
- A current list of authorized employees and service personnel that have access to the surveillance room must be posted in the surveillance room. All activity (maintenance work, electronic work, etc.) shall be logged and maintained in the surveillance room.
- Off-site monitoring and video recording storage (not on the licensed premises) by the Licensee or independent company is authorized as long as standards exercised at remote locations meet or exceed all standards for onsite monitoring.
- Each licensed center located in a common or shared building or area must have a separate surveillance room/area on, and dedicated to, the single, specific licensed premises. For commonly-owned centers, which are within the same municipality, the surveillance room may exist within one of the commonly owned centers, which simultaneously serves all of the commonly-owned centers. The center(s) that does not house the surveillance room, will provide a review station, printer, and map of camera placement at the property that does not house the surveillance room if the centers are not contiguous. All equipment and security standards in the review station room will meet the minimum criteria set forth by this section.

At least one surveillance camera must be in the surveillance room or view access to the surveillance area.

Video Recording and Retention Requirements

- All camera views of customer areas all limited access areas must be continuously recorded twenty-four (24) hours a day. The use of motion detection is authorized with a minimum of ten (10) second pre- and post-event recording.
- All surveillance recordings must be kept for a minimum of forty (40) days, in a manner that can be reasonably and timely accessed by licensing authorities and law enforcement. twenty (20) days on the Licensee's digital or network recording device, with the preceding twenty (20) consecutive days exported and stored on another digital device, such as a compact disc, USB drive, or other external hard-drive. Exported vVideo recordings must be archived in a proprietary format that ensures

- authentication of the <u>recording as legitimately-captured</u> video and guarantees that no alteration of the recorded image has taken place.
- The licensee must be able to immediately produce a clear color still photo from any camera image (live or recorded).
- The date and time must be embedded on all recordings of customer areas, without significantly obscure obscuring the picture. The date and time must be synchronized with any point-of-sale system.
- Time is to be measured in accordance with the official United States time established by the National Institute of Standards and Technology and the U.S. Naval Observatory at: http://www.time.gov/timezone.cgi?Mountain/d/-7/java
- All recordings must be erased or destroyed prior to disposal, sale to another licensee or manufacturer, or when discarded by any other means, except that the recordings must be retained for the period of time set forth in this rule. Notwithstanding this rule, Video recordings may not be destroyed if the licensee is aware of a pending criminal, civil or administrative investigation or legal proceedings for which the recording may contain relevant information.
- Surveillance recordings and clear still photos must be made available to the MMED and law enforcement upon an administrative or law enforcement request demonstrating that the information sought is relevant and material to a legitimate regulatory or law enforcement inquiry

Other Records

- All records applicable to the surveillance system shall be maintained in the surveillance room. At minimum, Licensees shall maintain a map of the camera locations, direction of coverage, camera numbers and operating instructions for the surveillance equipment.
- A chronological point-of-sale transaction log must be made available to be used in conjunction with recorded video of those transactions.

Lock Standards (formerly Rule 10.300)

- At all points of ingress and egress, the Licensee shall ensure the use of a commercialgrade, non-residential door lock.
- Any outdoor optional premises cultivation-licensed premises, or greenhouse cultivation, must meet all of the requirements for security alarm systems the lock standards described in this rule.